

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

JAMES WHITTON LOWE, M.D.)

Case No. 16-2009-198001

**Physician's and Surgeon's)
Certificate No. A-73317)**

**Respondent)
_____)**

DECISION

**The attached Stipulated Surrender of License and Order is hereby adopted
by the Medical Board of California, Department of Consumer Affairs, State of
California as its Decision in the above entitled matter.**

This Decision shall become effective at 5:00 p.m. on September 8, 2009

IT IS SO ORDERED August 28, 2009.

MEDICAL BOARD OF CALIFORNIA

**By: Kimberly K. Johnston
Barbara Johnston,
Executive Director**

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1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 SUSAN K. MEADOWS
Deputy Attorney General
4 State Bar No. 115092
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5552
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 16-2009-198001

11 **JAMES WHITTON LOWE, M.D.**
12 **P.O. Box 13742**
13 **New Orleans, LA 70185-3742**

STIPULATED SURRENDER OF
LICENSE AND ORDER

14 **Physician's and Surgeon's Certificate**
No. A 73317

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 1. Barbara Johnston (Complainant) is the Executive Director of the Board. She brought
20 this action solely in her official capacity as and is represented in this matter by Edmund G. Brown
21 Jr., Attorney General of the State of California, by Susan K. Meadows, Deputy Attorney General.

22 2. James Whitton Lowe, M.D. (Respondent) is represented in this proceeding by
23 attorney Mr. Sean Finan, Esquire, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 1600
24 Wachovia Tower, 420 20th Street North, Birmingham, AL 35203.

25 3. Respondent has received, and discussed with counsel, the Accusation which is
26 presently on file and pending in case number 16-2009-198001, a copy of which is attached as
27 Exhibit A.

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1 4. Respondent has carefully read, discussed with counsel, and understands the charges
2 and allegations in Accusation No. 16-2009-198001. ("Accusation") Respondent also has
3 carefully read and understands the effects of this Stipulated Surrender of License ("Stipulation").

4 5. Respondent is fully aware of his legal rights in this matter, including the right to a
5 hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at
6 his own expense; the right to confront and cross-examine the witness against him; the right to
7 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
8 the attendance of witness and the production of documents; the right to reconsideration and court
9 review of an adverse decision; and other rights accorded by the California Administrative
10 Procedure Act and other applicable laws.

11 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
12 every right set forth above.

13 7. Respondent agrees that based on the action taken by the Louisiana State Board of
14 Medical Examiners as alleged in the Accusation, cause exists to discipline his California
15 physician's and surgeon's certificate pursuant to Business and Professions Code sections 141 and
16 2305. Respondent has no present plans to return to California. He wishes to surrender his
17 California license at this time.

18 8. This Stipulation shall be subject to the approval of the Board. Respondent
19 understands and agrees that the Medical Board's staff and counsel for complainant may
20 communicate directly with the Board regarding this Stipulation without notice or participation by
21 respondent. By signing this Stipulation, respondent understands and agrees that he may not
22 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
23 and acts upon it. In the event that this Stipulation is rejected for any reason by the Board, it will
24 be of no force or effect for either party, and the Board will not be disqualified from further action
25 in this matter by virtue of its consideration of this Stipulation.

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1 9. Upon acceptance of this stipulation by the Board, respondent understands that he will
2 no longer be permitted to practice as a physician and surgeon in California, and also agrees to
3 surrender and cause to be delivered to the Board any license and wallet certificate in his
4 possession before the effective date of the decision.

5 10. The admission made by respondent herein are only for the purpose of this proceeding,
6 or any other proceedings in which the Board or other professional licensing agency is involved,
7 and shall not be admissible in any other criminal or civil proceeding.

8 11. Respondent fully understands and agrees that if he ever files an application for
9 relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
10 reinstatement, and respondent must comply with all laws, regulations and procedures for
11 reinstatement of a revoked license in effect at the time the petition is filed.

12 12. Respondent understands that he may not petition for reinstatement as a physician and
13 surgeon for a period of three (3) years from the effective date of his surrender. Information
14 gathered in connection with the Accusation number 16-2009-198001 may be considered by the
15 Board in determining whether or not to grant the petition for reinstatement. For the purpose of
16 the reinstatement hearing, the allegations contained in the Accusation number 16-2009-198001
17 shall be deemed to be admitted by the Respondent, and respondent waives any and all defenses
18 based on a claim of laches or the statute of limitations.

19 13. The parties understand and agree that facsimile or electronic copies of this
20 Stipulation, including facsimile or electronic signatures thereto, shall have the same force of
21 effect as the originals.

22 ACCEPTANCE

23 I have carefully read the above Stipulation, I enter into it freely and voluntarily and with
24 full knowledge of its force and effect, do hereby surrender my Physician's and Surgeon's
25 Certificate Number A 73317 to the Medical Board of California, for its formal acceptance. By
26 signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the
27 Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of
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California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 7/31/09 JLowe MS
JAMES WHITTON LOWE, M.D.
Respondent

I CONCUR
DATED: 7/31/09 [Signature]
SEAN FINAN, ESQUIRE
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC
Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulation is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 8/11/09
EDMUND G. BROWN JR., Attorney General
of the State of California
[Signature]
SUSAN K. MEADOWS
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

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FILED
 STATE OF CALIFORNIA
 MEDICAL BOARD OF CALIFORNIA
 SACRAMENTO July 15 2009
 BY: [Signature]

1 EDMUND G. BROWN JR.
 Attorney General of California
 2 JOSE R. GUERRERO
 Supervising Deputy Attorney General
 3 SUSAN K. MEADOWS
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11 In the Matter of the Accusation Against:

Case No. 16-2009-198001

12 JAMES WHITTON LOWE, M.D.
 P.O. Box 13742
 13 New Orleans, LA 70185-3742

ACCUSATION

14 Physician's and Surgeon's Certificate
 No. A 73317

15
 16 Respondent.

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 18 Complainant alleges:

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 20 PARTIES

21 1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity
 22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

23 2. On or about October 19, 2000, the Medical Board of California issued Physician's
 24 and Surgeon's Certificate Number A 73317 to James Whitton Lowe, M.D. (Respondent). The
 25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
 26 charges brought herein and will expire on October 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California¹ (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

A. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

B. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein."

¹ . Cal. Bus. & Prof. Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical practice Act (Cal. Bus. & Prof. Code, sections 2000 et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

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1 "(b) Nothing in this section shall preclude a board from applying a specific
2 statutory provision in the licensing act administered by the board that provides for discipline
3 based upon a disciplinary action taken against the licensee by another state, an agency of the
4 federal government, or another country."

5 4. Respondent is subject to discipline within the meaning of section 2305 of the Code as
6 more particularly set forth herein below.

7 **FIRST CAUSE FOR DISCIPLINE**

8 (Discipline, Restriction, or Limitation Imposed by Another State)

9 5. On or about March 11, 2009, the Louisiana State Board of Medical Examiners
10 (hereinafter "Louisiana Medical Examiners") issued a Order of Summary Suspension (hereinafter
11 "Order") against respondent's medical license. The Order required Respondent's medical license
12 to be suspended immediately. The Medical Examiners alleged that Respondent violated sexual
13 boundaries with several of his patients and prescribed controlled substances in an illegitimate
14 manner to individuals when he was not providing any medical or therapeutic treatment.

15 6. The above action by the Louisiana Medical Examiners regarding respondent's license
16 to practice medicine, as set forth above, constitutes unprofessional conduct within the meaning of
17 sections 141 and 2305 of the Code. Therefore, cause for discipline exists.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged
20 and that, following the hearing, the Medical Board of California issue a decision:

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 73317
22 issued to respondent, James Whitton Lowe, M.D.;

23 2. Ordering respondent to pay the Medical Board of California the costs of probation
24 monitoring upon order of the Board;

25 3. Revoking, suspending or denying approval of the respondent's authority to supervise
26 physician assistants; and,

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1 4. Taking such other and further action as the Board deems necessary and proper.

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3 DATED: July 15, 2009


BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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